IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 7821 of 2005

Between:

M/s. Gubba Cold Storage Limited, Rep. by its

Managing Director, G. Kiran Kumar, S/o. Nagendra Rao,

aged 32 Years, R/o. H.No. 15-2-787, Osmangunj, Hyderabad.

..... PETITIONER

AND

The Commercial Tax Officer, Osmangunj Circle, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ or direction more particularly in the nature of Writ of Mandamus declaring the final assessment orders dt. 31-1-2005 passed by the respondent without issuing any show cause notice for the assessment years 2002-03 & 2003-04 as illegal, arbitrary and contrary to the provisions of Sec.14 of the APGST Act, 1957 and also contrary to the principles of natural justice and also to set-a-side the same and pass such other order or orders as the Hon'ble Court may deem fit and proper under circumstances of the case.

For the Petitioner: Mr. Kunuku Durga Prasad, Advocate.

For the Respondent: GP FOR COMMERCIAL TAX

The Court at the admission stage made the following :

ORDER: (per Sri B. Sudershan Reddy, J)

Heard the learned counsel for the petitioner and the learned Government Pleader appearing on behalf of the respondent and at their request, the matter is taken up for final hearing at the admission stage. Rule nisi.

The final assessment order dated 31-1-2005 on the file of the Commercial Tax Officer, the respondent herein is impugned in this writ petition mainly on the ground that the said final assessment has been passed without issuing any prior show cause notice to the petitioner as is required under law. The final assessment order for the years 2002-03 and 2003-04 as such does not disclose that any prior show cause notice has been issued before passing the impugned order. In the circumstances, we find it difficult to sustain the final assessment order.

However, the proceeding dated 31-01-2005 shall be treated as a show cause notice to which the petitioner shall file its objections within ten days from today, which shall be received by the respondent for his consideration in accordance with law. It shall be open to the respondent herein to pass final assessment order after duly considering the explanation to be submitted by the petitioner. Suffice it to clarify that we have not expressed any opinion on the merits of the case and on any of the contentions raised in the writ petition.

The Writ Petition is accordingly disposed of.

(B. Sudershan Reddy, J)

12-04-2005

(C.V. Ramulu, J)

ks

Note: Furnish Copy within three days.

B/O

To

1. The Commercial Tax Officer, Osmangunj Circle, Hyderabad.

2. Two CCs to the Government Pleader for Commercial Tax, High Court of Andhra Pradesh, Hyderabad.

3. Two CD copies.